



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: [REDACTED]
MAHS Docket No.: 16-007773
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUES

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective [REDACTED]

Did the Department properly determine Petitioner's spouse's and their minor child's (Child A) immigration status or citizenship when determining their Medicaid (MA) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner, his spouse, and Child A are not United States citizens, but they have eligible immigration statuses as permanent resident aliens. See Exhibit A, pp. 50-53 and 56.

2. Child A is an ongoing recipient of MA benefits. See Exhibit A, p. 45 and Exhibit B, p. 2.
3. Petitioner's spouse is pregnant with an expected due date of [REDACTED]. See Exhibit A, p. 3.
4. On [REDACTED], Petitioner's spouse applied for MA benefits. See Exhibit A, pp. 4-11.
5. In the application dated [REDACTED], the spouse indicated that she had eligible immigration status. See Exhibit A, p. 6.
6. On [REDACTED], Petitioner applied for FAP benefits. See Exhibit A, pp. 12-26.
7. In the application dated [REDACTED], Petitioner reported the following: (i) three household members (Petitioner, spouse, and Child A); (ii) none are U.S. citizens, but they have eligible immigration status; and (iii) he reported liquid – cash assets, but did not report having any checking/savings accounts. See Exhibit A, pp. 12-26.
8. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his spouse was approved only for Emergency Services Only (ESO) coverage effective [REDACTED]. See Exhibit A, pp. 27-28. The determination notice failed to address the spouse's MA eligibility for May 2016 (month of application).
9. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) to determine his eligibility for FAP benefits and requested the following verification: (i) birth verification of spouse and child; (ii) proof of residential address; (iii) proof of checking account; and (iv) provision of additional information about "alien status undeclared." See Exhibit A, pp. 29-30. The verifications were due back by [REDACTED]. See Exhibit A, p. 29.
10. On [REDACTED], Petitioner's spouse reapplied for MA benefits. See Exhibit A, pp. 31-38.
11. In the application dated [REDACTED] the spouse indicated that she had eligible immigration status. See Exhibit A, p. 33.
12. Child A also received ongoing ESO coverage for MA – Newborns. See Exhibit A, p. 45 and Exhibit B, p. 2.
13. Petitioner failed to provide the requested verifications by the due date.
14. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP application was denied effective [REDACTED] because Petitioner or a group member is not a citizen or eligible alien or has not provided proof of citizenship or immigration status, and the Department did not receive verification of

the checking account, alien status undeclared, and residential address. See Exhibit A, pp. 39-40.

15. On [REDACTED], the Department sent Petitioner a determination notice notifying him that his spouse was eligible for full MA coverage for [REDACTED], but was only approved for ESO coverage effective [REDACTED], ongoing. See Exhibit A, pp. 41-42 (the Department hand wrote on determination notice that Child A was also approved for ESO coverage effective [REDACTED]).
16. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, p. 2.
17. On [REDACTED], the Department sent Petitioner a Quick Note informing him that Child A was also approved for ESO coverage and that Maternity Outpatient Medical Services (MOMS) medical coverage is available for pregnant women. See Exhibit A, p. 43.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

As a preliminary matter, Petitioner filed a hearing request in which he disputed the following: (i) his spouse's MA coverage; (ii) Child A's MA coverage; and (iii) the denial of FAP benefits. See Exhibit A, p. 2. The undersigned has jurisdiction to address Petitioner's dispute with his spouse's MA coverage effective [REDACTED] and the denial of the FAP benefits effective [REDACTED]. See BAM 600 (October 2015), pp. 1-6.

However, an issue arose as to whether the undersigned has jurisdiction to address Child A's MA coverage. The Department presented two MA applications that were submitted only for the spouse and not Child A. Thus, it was unclear if the undersigned had any jurisdiction to address Child A's MA concerns as the applications were only in relation to the spouse. Nonetheless, the evidence record contained information that an MA eligibility determination had been completed for Child A on or about [REDACTED], which was within 90-days of Petitioner's hearing request. See Exhibit A, pp. 2 and 41 and Exhibit B, p. 2. Even though it appears a determination notice had not been issued for Child A, the Department ultimately completed an MA eligibility determination for Child A. Because Petitioner's hearing request is within 90-days of Child A's MA eligibility determination, the undersigned has jurisdiction to address Petitioner's concern with Child A's MA eligibility. See BAM 600 (October 2015), pp. 1-6. As such, the undersigned will address the following below: (i) Petitioner's FAP denial effective [REDACTED]; and (ii) the spouse's and Child A's MA coverage effective [REDACTED].

FAP application

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (January 2016), p. 6. The Department send a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

For asset verification requirements, the Department verifies the value of countable assets at application, redetermination and when a change is reported. BEM 400 (April 2016), p. 56. Note: for FAP, verify assets at semiannual and mid-certification contacts only if a change is reported. BEM 400, p. 56.

For residence verification, for FAP only, the Department verifies that the individual lives in the area your office serves. BEM 220 (January 2016), p. 6. However, do not deny benefits to an individual with no permanent address (e.g., new arrival, migrant, homeless) **solely** for lack of a verified address. BEM 220, p. 6. Note the lack of this verification and reason for it on the DHS-1171 or in *case comments* in Bridges. BEM 220, p. 6. Acceptable verification sources are listed in BEM 220 (i.e., driver's license). See BEM 220, p. 7. Exception: Verification of residence is not needed for categorically eligible groups. BEM 220, p. 7.

For citizenship/alien status, the Department determines the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (October 2015), p. 1. Policy states that the alien status of each non-citizen requesting benefits **MUST** be verified. BEM 225, p. 20. The

Department disqualifies a person who is unable to obtain verification or refuses to cooperate in obtaining it. BEM 225, p. 20.

Prior to Petitioner's FAP application dated [REDACTED] the Department previously obtained verification on or around [REDACTED] of all three household members' permanent resident cards and Chase Bank checking account verification for the statement period of [REDACTED] to [REDACTED]. See Exhibit A, pp. 50-56. The Department testified that it obtained these proofs from a prior application.

On [REDACTED], Petitioner applied for FAP benefits. See Exhibit A, pp. 12-26. In the application, Petitioner reported the following: (i) three household members (Petitioner, spouse, and Child A); (ii) none are U.S. citizens, but they have eligible immigration status; and (iii) he reported liquid – cash assets, but did not report having any checking/savings accounts. See Exhibit A, pp. 12-26.

On [REDACTED], the Department sent Petitioner a VCL to determine his eligibility for FAP benefits and requested the following verifications: (i) birth verification of spouse and child; (ii) proof of residential address; (iii) proof of checking account; and (iv) provision of additional information about "alien status undeclared." See Exhibit A, pp. 29-30. The verifications were due back by [REDACTED]. See Exhibit A, pp. 29-30.

At the hearing, the Department testified that even though it had obtained some of the verifications from a previous application on [REDACTED], the Department testified that it re-requested the verification to determine if any information had been updated (i.e., immigration status updated).

The Department testified that Petitioner failed to provide the requested verifications by the due date. In response, Petitioner testified and/or made the following assertions: (i) he initially did not provide the verifications; (ii) he was informed to reapply for benefits; and (iii) he eventually provided the verifications.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it denied Petitioner's FAP application effective [REDACTED]. Even though the Department had some of the prior requested verifications (permanent resident cards and bank accounts), the undersigned found it reasonable that the Department re-requested the verifications, as it was a new application and it needed to redetermine his FAP eligibility. The evidence established that Petitioner failed to submit any of the requested verifications, such as, alien status, residence, and bank accounts. As shown above, policy allows the Department to request such verifications. Ultimately, Petitioner must complete the necessary forms to determine his initial and ongoing FAP eligibility. See BAM 105, p. 9. Because the evidence established that Petitioner failed to submit the requested verifications, the Department acted in accordance with Department policy when it denied his FAP application effective [REDACTED]. BAM 105, p. 9; BAM 130, pp. 1-7; BEM 220, pp. 6-7; BEM 225, pp. 1 and 20; and BEM 400, p. 56.

ESO coverage

In the present case, the Department determined that Child A and the spouse were only eligible for ESO coverage effective [REDACTED], ongoing. See Exhibit A, pp. 27-28, 41-43 and Exhibit B, pp. 1-2. In response, Petitioner disputed the type of MA coverage they were eligible to receive.

To be eligible for full coverage MA, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2015), p. 2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; MREM, § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, Petitioner's spouse and Child A were not permanent resident aliens for five or more years, they did not enter the U.S. based on asylum or refugee status, they did not have an eligible class code, and there was not a qualified military alien. See Exhibit A, pp. 7, 18, 34, 50-53, and 56.

Based on the foregoing information and evidence, along with both parties' testimony, Petitioner's spouse and Child A would not be eligible for full-coverage MA. As such, the undersigned finds that Department properly determined Petitioner's spouse's and Child A's immigration status when determining their MA eligibility and finding that they were only eligible for ESO coverage effective [REDACTED]. See BEM 225, pp. 7-8, and 30.


It should be noted that Petitioner's hearing request also indicated that his spouse should be eligible for MOMS coverage. See Exhibit A, p. 2. On [REDACTED], the Department sent Petitioner a Quick Note informing his spouse about the MOMS medical coverage. See Exhibit A, p. 43. Maternity Outpatient Medical Services (MOMS) is a health coverage program operated by the Department of Community Health (DCH). BEM 657 (June 2015), p. 1. MOMS provides prenatal and postpartum outpatient pregnancy-related services to women who are pregnant or recently pregnant and are eligible for Medicaid Emergency Services Only (ESO). BEM 657, p. 1. In the present case, the undersigned lacks any jurisdiction to discuss the MOMS coverage as it is operated by DCH and the fact that the Quick Note was sent subsequent to the hearing request. See BAM 600, pp. 1-6. Thus, the undersigned lacks any jurisdiction to address Petitioner's concerns for his spouse's MA coverage under the MOMS program. See BAM 600, pp. 1-6.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that (i) the Department acted in accordance with Department policy when it denied Petitioner's FAP application effective [REDACTED]; (ii) the Department did properly determine Petitioner's spouse's and Child A's immigration status or citizenship when determining MA eligibility and determining that they were only eligible for ESO coverage; and (iii) the undersigned lacks any jurisdiction to address Petitioner's concerns for his spouse's MA coverage under the MOMS program.

Accordingly, the Department's FAP and MA decision is **AFFIRMED**.

EJF/hw



Eric J. Feldman

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to [REDACTED]; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]